

MINUTES OF THE PLAN COMMISSION
October 26, 2009

The regular meeting of the Plan Commission was called to order by Chairman Mark Moore at 7:03 p.m. at the Village Hall.

Members present: Chairman Mark Moore, Scott Adams, William Cotey, Walter Oakley, Terry Howard, and Andy Robinson.

Members absent: Robert Guarnaccio.

A quorum was established.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner; and Pat Sheeran, Project Engineer.

Commissioner Robinson moved, seconded by Commissioner Howard, to approve the September 14, 2009, Plan Commission meeting minutes.

Motion carried 6 - 0.

Commissioner Robinson moved, seconded by Commissioner Howard, to approve the September 21, 2009, Plan Commission meeting minutes.

Motion carried 6 - 0.

OLD BUSINESS:

PC 09-14 Timothy Morgan Associates, Applicant

Request is for a Text Amendment to Section 13-9.3 of the Libertyville Zoning Code relating to the maximum permitted height of fences in the I-3 and O-2 Districts.

Mr. David Smith, Senior Planner, stated that the petitioner was before them at their July 13, 2009, August 10, 2009 and September 21, 2009 meetings requesting to amend the Zoning Code in order to allow fences to have a maximum height of 15 feet in the O-2 and I-3 Districts.

Mr. Smith stated that at the second appearance, modifications were proposed so that the fence shall not exceed a height of ten (10) feet, as measured from the lowest point of the fence exposed above ground to the highest point of the fence; and that the highest point of the fence, as installed upon the berm, shall not exceed a total height of fifteen (15) feet above grade, as defined by the Zoning Code; and that the berm shall be landscaped and maintained on the finished side of the fence facing the exterior.

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Mr. Smith stated that at the third appearance, on September 21, 2009, modifications were proposed so that for properties located in the I-3 General Industrial District which is abutting a residential zoning district, a fence, erected upon a berm which runs parallel to a public right of way, shall be subject to the following restrictions:

1. The fence shall not exceed a height of ten (10) feet, as measured from the lowest point of the fence exposed above ground to the highest point of the fence.
2. The highest point of the fence, as installed upon the berm, shall not exceed a total height of fifteen (15) feet above grade, as defined by this Code.
3. The berm shall be landscaped and maintained on the finished side of the fence facing the exterior of the lot in accordance with the requirements of sections 13-2.2a and 13-2.2b of this code, notwithstanding the fact that such requirements may not otherwise be applicable to the zoning lot upon which the fence and berm are erected.

Mr. Smith stated that during the course of the September 21, 2009, the Plan Commission made a motion to continue this text amendment request to the October 26, 2009 meeting in order to provide the petitioner an opportunity to include additional text language into the proposed text amendment that includes a Site Plan Permit requirement as part of a fence/berm installation. Mr. Smith stated that Staff has drafted additional wording regarding the Site Plan.

Mr. Tim Morgan, petitioner, presented the changes to the proposed text amendment.

Ms. Holli Devon, 15570 W. Rockland Road, stated that she is concerned about a special privilege being granted to the petitioner. She stated that Seventh Avenue has already changed twice. She is concerned that the Aldridge Electric property owner was permitted to install a wind turbine and now a fence.

Ms. Laurie Renz, 816 East Rockland Road, stated that she has looked at several fences that are ten feet in height. She stated that she is concerned that proper public notice was not provided by the petitioner. She stated that she is concerned that the public benefit was not taken into consideration. She stated that a five foot berm with a ten foot fence on it would be ugly. She stated that it would look like a fortress or a barricade. She stated that other communities permit adjacent residents to request a higher fence or not.

Mr. Morgan stated that the residents living adjacent to the existing Seventh Avenue fence do not have an objection.

Mr. Pat Sheeran, Village Project Engineer, stated that the typical berm slope should not exceed a three to one slope so then a five foot high berm would require thirty feet of land width plus additional width for the berm's plateau.

Mr. William Westerman, 1752 Cedar Drive, stated there are residential districts along Fifth Avenue, Fourth Avenue and Church Street that are adjacent to the I-3 District that could potentially see fence heights that would reflect the proposed Zoning Code text amendment if passed.

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Mr. Gary Newell, 428 Seventh Avenue, stated that if the land owner created a problem that was not in compliance with the Code, then the owner should fix the problem, not change the Zoning Code.

Ms. Renz stated that the proposed text amendment will set a precedent.

Ms. Susan Hamlin, 408 South Seventh Avenue, stated that consideration should be given to lowering the existing fence.

Ms. Devon stated that the neighborhood has been changing. She stated that it is not okay to change the rules.

Mr. Joe Mullen, 414 South Seventh Avenue, stated the petitioner should ask for a variation in lieu of the text amendment.

Commissioner Robinson asked if the proposed text amendment were approved would changes to the existing Seventh Avenue fence and berm be necessary. Mr. Morgan responded in the negative.

Mr. Spoden stated that if the proposed text amendment were approved, then the petitioner would need to come back to ask for a Site Plan Permit that would go before the ARC, Plan Commission and Village Board of Trustees.

Commissioner Howard stated that he is concerned about the lack of benefit to the public good. He stated that he has heard public support for the existing Seventh Avenue berm and fence. He stated that the Standards for a Site Plan Permit may lead to an arbitrary decision.

Mr. Spoden stated that the Zoning Code establishes Standards for Denial for a Site Plan Permit. He stated that the Plan Commission can ask for more landscaping than what is required by code for cases in which a Site Plan Permit is being requested.

Commissioner Howard stated that consideration should be given to revising the proposed text amendment so that it matches the existing Seventh Avenue fence and berm.

Commissioner Cotey stated that he does not want to see the existing Seventh Avenue fence torn down. He stated that consideration should be given to revising the amendment to require more landscaping with the maximum permitted fence height lowered.

Mr. Spoden stated that the proposed text amendment provides an opportunity to increase buffering between residential districts and the I-3 district.

Commissioner Cotey stated that the added language to the amendment regarding the Site Plan Permit requirement provides additional oversight.

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Mr. David Pardys, Village Attorney, stated that most petitions for Zoning Code text amendments are initiated by those who are trying to fix a land use problem and often have a self-interest, however, these circumstances do not prohibit such petitions from submittal.

Chairman Moore stated that the petitioner has considered changing their request to a variation, but instead opted for the text amendment. He stated that if this amendment were to be considered then it should include the proper screening between residential and industrial districts.

Ms. Renz stated that text amendments should be considered only in the context of the Village as a whole and not site specific only.

In the matter of PC 09-14, Commissioner Oakley moved, seconded by Commissioner Howard, to recommend the Village Board of Trustees approve a Text Amendment to Section 13-9.3 of the Libertyville Zoning Code relating to the maximum permitted height of fences in the I-3 district to include the following:

- c. On properties located in the I-3 General Industrial District which are abutting a residential zoning district, a fence, erected upon a berm which runs parallel to a public right of way, shall be subject to the following restrictions:*
- 1. The fence shall not exceed a height of ten (10) feet, as measured from the lowest point of the fence exposed above ground to the highest point of the fence.*
 - 2. The highest point of the fence, as installed upon the berm, shall not exceed a total height of fifteen (15) feet above grade, as defined by this Code.*
 - 3. The berm shall be landscaped and maintained on the finished side of the fence facing the exterior of the lot in accordance with the requirements of sections 13-2.2a and 13-2.2b of this code, notwithstanding the fact that such requirements may not otherwise be applicable to the zoning lot upon which the fence and berm are erected.*
 - 4. No fence may be erected pursuant to this section without a Site Plan Permit having first been approved by the Board of Trustees pursuant to Section 16-10.5(d) of this Code.*

Motion failed 3 - 3.

Ayes: Moore, Cotey, Oakley
Nays: Adams, Howard, Robinson
Absent: Guarnaccio

NEW BUSINESS:

PC 09-16 Richard W. Burke and Allen L. Kracower, Applicants
Approximately 97 acres generally located west of Butterfield Road, north of Park Avenue and the Conventional Franciscan Friars of Marytown, and east of Pine Meadow Golf Course and Saint Mary of the Lake Seminary

Request is for an Amendment to the Comprehensive Plan in order to change the land use designation from Public/Institutional to Residential for approximately 97 acres currently in an IB, Institutional Buildings District located west of Butterfield Road and north of West Park Avenue.

Mr. John Spoden, Director of Community Development, introduced the petitioner for the proposed amendment to the Comprehensive Plan. He stated that 2005 was the last update to the Comprehensive Plan and it was at that time the Comprehensive Plan Review Committee determined that the subject site should remain Institutional as it had served in that capacity for quite some time as part of the Mundelein Seminary. He stated that the subject site is part of the Mundelein Seminary which is predominately located in the Village of Mundelein with the eastern portion located within the Village of Libertyville. He stated that now that there is a proposal to reconsider a land use designation change, the Plan Commission is provided an opportunity to discuss this issue and make a recommendation to the Village Board.

Mr. Mike Graham, attorney and agent for the petitioner, introduced the Vice President of the Mundelein Seminary, Father Thomas Baima.

Fr. Baima, 1000 East Maple, Mundelein, IL., stated that the entire seminary is approximately 800 acres, 97 acres of which are located within the Village of Libertyville the remaining balance of the land is located in the Village of Mundelein. He stated that Cardinal Mundelein was the founder of the Seminary. He stated that the seminary currently has no contract to sell or develop the subject 90 acres, but are only in the early planning stages at this point and time. He stated that a developer will have to come back before the Village of Libertyville in the future with a development proposal.

Father Dennis Lyle, President, Mundelein Seminary, 1000 East Maple, Mundelein, IL., stated that the Mundelein Seminary facility is for training individuals for the priesthood. He stated that 185 live there between four to six years and then return to their Diocese. He stated that the portion of the land subject for discussion to consider changing its land use category is an option that the Arch Diocese wants to consider.

Fr. Baima stated that they have 185 seminarians who are training for the priesthood and other wide-ranging missions. He stated that the seminary was chartered in 1844 and moved to its current site in 1921. He stated that its building phase occurred between 1921 to 1930. He stated that the seminary is a cultural institution and that they want to be good neighbors. He stated that they constructed between 18 to 19 buildings in the 1920's and just recently dedicated its latest addition in 2004. He stated that it requires a lot of financial resources to maintain the buildings as they age and they also have had to replace four of their five bridges that access across St. Mary's Lake.

Mr. Allen Kracower, 1001 Johnson Drive, Buffalo Grove, IL. Land Planner and agent for the petitioner, stated that the Village's Comprehensive Plan is a guide for land use designation and is passed by ordinance and that the Zoning Code is the law that is enforced by police powers and used to control land use development. He stated that the current land use designation for the subject site is Institutional. He stated that the Mundelein Seminary is approximately 880 acres and is privately

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owned, 97 acres of which are within the Village of Libertyville. He stated that of the 97 acres, the petitioner is proposing to leave it as is since this portion surrounds the east end of the lake. He stated that they are more focused on the northern 33 acres for the land use consideration. He stated that in 2006, Lake County Department of Transportation expanded Butterfield Road in addition to 1.7 acres of land for detention which is adjacent to the subject site along Butterfield Road. He stated that Lake County D.O.T. agreed to not take more land if the subject site is subdivided. He stated that he has been meeting with the Village of Libertyville Planning Division Staff to discuss the potential land use designation changes. He stated that as of now there are no developers proposing any developments for the subject site. He stated that the current intent is to plan the area so that there is ample setback from the area around the lake. He stated that the portion of the subject site that is adjacent to Butterfield Road will most likely have the highest land use intensity. He stated that a comprehensive tree survey will be done when a developer makes an application to develop the land.

Ms. Moira Breen, 139 Woodland Road, stated that she is concerned about the trees on the subject site. She stated that several trees have been cut down in the past.

Chairman Moore stated that the petitioner has indicated that the trees around the center portion of the site that surrounds the east end of the lake will not be removed.

Ms. Mary Ann Zemla, 163 Woodland Avenue, stated that she has lived in her home for 18 years. She stated that she does not want buildings behind the Woodland Avenue residents. She stated that the area is a beautiful area as is.

Fr. Baima stated that they intend to keep the area around the lake the same as it is today.

Commissioner Adams stated that it appears to be a work in progress. He stated that he supports keeping Planning Area 2, around the lake, as is.

Commissioner Cotey stated that the proposal is a good concept. He stated that he is concerned that any development proposal does not become something similar to the Sherborne subdivision. He stated that consideration should be given to including affordable housing and senior housing. He stated that consideration should be given to preserving the south planning area and/or design it so that it is culturally sensitive to the Mundelein Seminary. He stated that consideration should be given to opening up the seminary library to the public and making it more accessible. He stated that he does not like the office use idea for any part of the subject site.

Commissioner Howard stated that the public good needs to be considered when deciding on a map amendment or comprehensive plan amendment. He stated that he would like to see more detailed information regarding Planning Area 1 of the subject site. He stated that he is concerned about the lack of connectivity with existing areas of the Village. He stated that he is concerned about the single location for the ingress and egress. He stated that he does not understand the petitioner's definition of medium density residential as shown in Planning Area 1. He stated that he is concerned about the potential impact on the School District.

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Mr. Kracower stated that the subject site is isolated by the highway. He stated that the future developer can do a fiscal impact analysis to address the impact on the school system. He stated that consideration should be given to including senior housing.

Commissioner Howard stated he is still concerned about the density issue.

Mr. Kracower stated that consideration should be given to mixing the residential uses between single family homes, duplex homes, townhomes, and senior housing with possible walking trails included.

Commissioner Howard stated that consideration should be given to lake usage for the residents.

Mr. Kracower stated that anyone who wishes to use the lake will need permission from the seminary.

Commissioner Robinson stated that the current Comprehensive Plan identifies the property's land use as Institutional Buildings District. He stated that he is concerned about any development on the property after it is sold. He stated that another church looked at the subject site for their expansion but did not follow through.

Mr. Richard Burke, stated that approximately 3 to 4 years ago, another Christian church indicated that they were interested in the subject site, but they did not follow through.

Chairman Moore stated that he is not supportive of multiple family housing for the site.

Mr. Spoden stated that there is an Affordable Housing Plan in which the Village shall require future housing developments to comply with.

Mr. Art Hughs, 207 Woodland Road, stated that he is concerned about the subject land becoming a gated community.

In the matter of PC 09-16, Commissioner Cotey moved, seconded by Commissioner Oakley, to continue this item to the January 25, 2010, Plan Commission meeting.

Motion carried 6 - 0.

COMMUNICATIONS AND DISCUSSION:

Mr. Spoden stated that Staff is currently revising the Wind Turbine ordinance.

Commissioner Cotey moved and Commissioner Howard seconded a motion to adjourn.

Motion carried 6 - 0.

Meeting adjourned at 10:30 p.m.